

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1885 - SB 1989

February 18, 2020

SUMMARY OF BILL: Establishes a timeline for the invalidity of certain reverter and forfeiture provisions contained in deeds, wills, and other common law estates. Requires titles to real property conveyed by a trust to be conveyed by the trustee. Requires applicable local officials to index records referencing a trust by the name of the trust and each trustee listed in the document.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions relative to procedure:

- The proposed language is applicable to reverter and forfeiture provisions of unlimited duration, those conveying real property, and those conveying an interest in real property which are contained in any deed, will, or other document establishing:
 - A fee simple determinable;
 - A fee simple subject to condition subsequent; or
 - A fee simple subject to executory limitation.
- Under current law, any party receiving property with a conditional reverter clause which utilizes the applicable property for a purpose other than the purpose for which the land was deeded, such property would revert back to the original owner.
- Upon termination or invalidity of such clauses, the recipient of property through the deed will be fee simple absolute. No action may be maintained by the conveyor to recover any interest or to forfeit any interest upon the termination of such reversionary interest.

Assumptions relative to state government:

- According to the Department of General Services:
 - The State has deeded only one property containing a reversion clause. This property reverted back to the State's ownership and was subsequently sold; and
 - Many of the 130 fire towers operated by the State are located on property which the State was deeded over 50 years ago, with the condition that the State utilizes the property for fire prevention purposes.

- The proposed language will make the State the owner of such property, fee simple absolute. This analysis assumes that the State will continue to utilize such property for fire prevention or similar services; therefore any impact to state government is estimated to be not significant.

Assumptions relative to local government and private parties:

- According to local sources, there are instances where local governments deed surplus land to third parties with reverter clauses; and conversely, third parties deed land to local governments with such reverter clauses.
- Under the provisions of this legislation, depending upon when such deed was established and the conveyor of such property, the local government or the third party will be the owner fee simple absolute of such property.
- The net impact to local government, statewide, from receipt and loss of property through invalidity of reversion clauses is estimated to be not significant.
- Instances occurring between private parties will not result in any fiscal impact to state or local government.
- The proposed language is not estimated to increase the current caseload of the court system.
- Requirements associated with the indexing of certain documents by applicable local officials will not result in any significant fiscal impact to local government.

Assumptions relative to total impact:

- The proposed language will result in an increase and decrease in amount of property owned by state and local government; however the net impact of such property ownership is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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